



the Silent Post

Newsletter of the Flathead Audubon Society

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Coal Strip-Mines or Solutions in the North Fork?

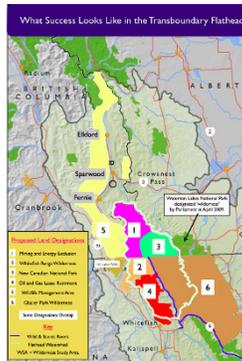
by Dave Hadden, Director, Headwaters Montana

Most Flathead Auduboners know of the threat of proposed coal strip mines and energy projects in the Canadian headwaters of the North Fork Flathead River. What may be news is the light we think we see at the end of the tunnel. There has never been a better time for you to participate in a lasting conservation solution for the North Fork. Here's the story and here's how you can help:

Since 2000, the British Columbia government has been considering a number of major industrial mining and energy projects for the headwaters of the North Fork, a.k.a. the Transboundary Flathead. Fortunately, these initiatives have been met with consistent and firm opposition from citizens on both sides of the border. The projects include:

- ◆ The Cline Mining's Lodgepole Coal
- ◆ BP's 'Mist Mountain Project' for coal bed methane (CBM)
- ◆ Phosphate and gold mining prospects on Howell and Cabin Creeks just north of the border.

Today we believe that the momentum has finally shifted from the B.C. government promoting development to the government looking for a conservation solution. This shift has come about for several reasons, including:



- ◆ An exceptionally strong transboundary, conservation alliance,
- ◆ Clear articulation of conservation goals, including no mining or energy development in the Transboundary Flathead,
- ◆ Nine years of consistent work which culminated most recently with UNESCO considering a petition to review the Waterton-Glacier World Heritage Site status.

The big obstacle to a lasting transboundary conservation solution is the B.C. government, which has not yet recognized

the value of conserving the Flathead. We do know that B.C. premier's office is considering how to resolve the "Flathead File."

Please look at the accompanying map that shows an equitable, fair and lasting conservation solution. Our Canadian friends support this picture. And a big part in any solution is completing the conservation work on the US side of the border.

You can help move the Flathead to a resolution by asking Senators Baucus and Tester to retire the dormant oil and gas leases that blanket 200,000 acres of the Whitefish Range on the US side of the border. Go to www.headwatersmontana.org for more information, or call 837-0783. Please sign up for our weekly e-newsletter to stay informed.

JANUARY FLATHEAD AUDUBON CALENDAR

Monday, January 11, 2010: Flathead Audubon General Meeting. 7 PM, The Summit, Conference Room 3. Program about "Forest Jobs & Recreation Act." See page 3.

Monday, January 4, 2010: Flathead Audubon Board of Directors Meeting. 6 PM at 295 Third Ave. E.N. All are welcome.

Sunday, January 3, 2010: Kalispell Christmas Bird Count. Meet at Finnegan's at 7:30 AM. For more information, call Dan Casey at 857-3143. Birders of all expertise levels welcomed.

Saturday January 9, 2010: Winter Trails Day. See Field Trip Schedule, page 3.

Saturday, January 16, 2010: X-C Ski Trip to Glacier National Park. See Field Trip Schedule, page 3.

Saturday, January 23, 2010: Snowshoe in Glacier National Park. See Field Trip Schedule, page 3.

BIRD OF THE MONTH

By Linda DeKort

OUR COLD WEATHER 'CAMP ROBBER'

One of the common birds we will be studying carefully in the results of our Christmas Bird Count is the Gray Jay. As its name implies, the Gray Jay is muted in body color but is quite distinguishable with its striking pattern of black and white on its head and its short, black bill. The thick fluffy plumage gives it a soft rounded look; this appealing appearance allows us to be more forgiving as the Gray Jay, also known as Camp Robber, makes off with a few morsels of our picnic. Of course, the thick plumage also helps to keep it warm on long winter nights or during cold snaps when the temperature may plummet to 40 below zero.

Gray Jays are permanent residents throughout Canada, Alaska and our western mountains. Because they stay in one place and do not have to face the perils of long annual migrations, they often live for a very long time. These robin-sized birds have an average lifespan of about 8 years and some may reach the age of 15 or 16 years!



Distribution of the Gray Jay

Gray Jays breed as early as February and sit on nests which are surrounded by snow. Each clutch consists of three or four pale green speckled eggs. The Gray Jays manage to have enough energy to breed and brood and raise their young in the cold of winter because of their habit of hoarding. Over the summer and fall, each bird collects as much as 50



pounds of food. Their food includes insects, berries, mushrooms and even bits of flesh gleaned from carcasses. They prefer perishable foods and count on nature's refrigerator to keep them from rotting. Each item gets coated with the bird's sticky saliva and is fastened high in the trees.

Kate Webbink of University of Nebraska reports, "Gray Jays rely on the cold fall weather in the mountains to preserve their

food caches. Not only is that food valuable to the birds who stored it, but it is also vital to their chicks, which hatch weeks before any new berries bloom or insects swarm on the freezing mountainsides.

However, global climate change is warming those mountainsides, and resident species are facing serious problems. For Gray Jays, a rapid shift in seasonal patterns means finely tuned foraging and breeding behavior will be out of sync with the alpine forests. A warmer fall can rot food stored for the winter, and worse yet, a late winter can wipe out survival odds for Gray Jay chicks. Gray Jays have been studied extensively in Eastern Canada at latitude similar to Montana.

Twenty years ago, these forests were dense with jay territories, each occupied by a stable, experienced breeding pair along with mature chicks from earlier broods who stayed home for a few years to help their parents raise generations of nestlings. Today, their population has dropped by half and their territories appear to have decreased in quality, with the occupants mostly younger jay couples with low nesting success."

We will be keeping a close watch on the population of these fluffy birds here in the Flathead. For more details about how Gray Jays are reacting to global climate change, visit: [Winter's Early Birds](#) National Wildlife Federation.

ATTENTION, FRIENDS OF FERNE COHEN

A Celebration of the Life of Ferne Cohen will take place Saturday, January 30, 2010, at the O'Shaughnessy Cultural Arts Center in Whitefish, starting at 4:00 PM. Light food and drinks will be provided. There will also be opportunities for people to share their memories of Ferne and stories about their experiences with her. More details of the Celebration will be announced at the FAS January meeting. All of Ferne's friends are invited to participate.



"There is no cure for birth and death save to enjoy the interval."

George Santayana, 1922





January 2010 Program

EXPLAINING THE "FOREST JOBS AND RECREATION ACT OF 2009"

At our January meeting, Flathead Audubon members will be able to learn directly about the "Forest Jobs and Recreation Act of 2009," currently being debated in Congress, from two people who have been actively involved in its creation. Bruce Farling, Executive Director of the Montana Council of Trout Unlimited, and Tracy Stone-Manning, Field Director of Senator Tester's Missoula office, will be present to describe SB 1470 and to answer your questions. Bruce helped with negotiations for the Beaverhead-Deerlodge National Forest. Tracy serves as Senator Tester's point person for federal conservation and environmental issues in western Montana and has been deeply involved in the creation of SB 1470.

Senate Bill 1470, aka the "Wilderness Bill," was written and introduced to Congress by Montana Senator Jon Tester on July 20, 2009. The bill was referred to the Committee on Energy and Natural Resources. On December 17, the Senate Public Lands and Forests Subcommittee heard testimony on the bill.

The bill addresses public lands management and affects three national forests in northwest Montana, Beaverhead-Deerlodge National Forest, Seeley Lake Ranger District of the Lolo National Forest and Three Rivers Ranger District of the Kootenai National Forest. The bill is the product of collaborative efforts of many stakeholders, including timber companies, ranchers, sportsmen, environmental organizations and the Forest Service. Senator Max Baucus described the bill's development as a "bottom up" approach resulting in a "collaborative decisions" process by stakeholders to find common solutions and compromise.

The Forest Jobs and Recreation Act is "site specific" legislation that focuses on:

- ◆ Stewardship—timber harvests and recreation
- ◆ Landscape scale restoration projects
- ◆ Wilderness designation

Bring your questions about the bill to the FAS general membership meeting at 7:00 PM on January 11 in the Community Room of The Summit, 205 Sunnyview Lane in Kalispell. Bruce and Tracy will address your questions and enhance our understanding of the Forest Jobs and Recreation Act of 2009.



Be a Prepared Listener

If you want to do some homework on Senator Tester's Forest Jobs and Recreation Act in preparation for our January program, you may follow the bill's progress online via live webcasts of legislative hearings and you can view the text of the bill and accompanying maps on Tester's website, <http://tester.senate.gov/Legislation/foresthme.cfm>.

This section also provides editorials and other statements supporting the bill, including statements of support by Marc Racicot, Ed Regan (Resource Manager for RY Timber), Pat Williams and Rick Bass.

The Montana Wilderness Association has published support at: <http://www.wildmontana.org/>

[campaigns/forest_act/index.php](http://www.forestnet.com/campaigns/forest_act/index.php)

For critiques of the bill, see: Tom Power's December 7 commentary on Montana Public Radio:

<http://www.mtpr.net/commentaries/753>

Kerry White's opinion piece in the Big Sky Weekly, criticizing the bill because it caters to environmentalists: <http://www.thebigskyweekly.com/node/226>

An opinion piece by representatives of the utility terrain vehicle industry: <http://www.utvguide.net/news/2009/10/forest-jobs-and-recreation-act-is-bad.html>

January Field Trips

Saturday January 9, 2009: Winter Trails Day—A family oriented morning spent snowshoeing. We will be looking for interesting tracks in the snow and watching for the feathered ones that inhabit a winter landscape. The walk will be short and snowshoes will be provided. Meet at the upper Blacktail trailhead parking lot at 10AM. This field trip is cosponsored by the Swan Lake Ranger District, the Flathead National Forest and Flathead Audubon. To sign up and reserve your snowshoes, call the Swan Lake Ranger district at 837-7500.

Saturday, January 16, 2010: Join Flathead Audubon for a winter morning of cross country skiing in Glacier National Park. This mid-winter trip will go out along the old Flathead Ranger Station Road to the Quarter Circle Bridge, and along the Middle Fork of the Flathead River, with a good possibility of seeing Dippers, waterfowl, and Eagles. We will meet at the trailhead near the concession barn on the Apgar Lookout Road at 8:00 AM. Call Steve Gniadek at 892-7406 to sign up.



Saturday, January 23, 2010: Join a Glacier National Park Ranger for a guided snowshoe hike at 10:30 AM or 1:30 PM. Hikes last about 1 hour. Snowshoes are available for free that day in recognition of the national "Winter Trail" event. Visitors need to purchase park entrance pass.





BOARD MEMBER VIEWPOINT

From Dennis Hester



Migratory Bird Treaty Act of 1918

Introduction

Most people in the environmental community are aware of the Endangered Species Act as the primary legislative tool providing protection for endangered wildlife. However, decades before its passage in 1973, Congress enacted other laws to protect our wildlife treasures. At the close of the nineteenth century, the steep decline in waterfowl populations led to a public outcry and calls for legislative action to protect avian and mammalian species. In response, Congress passed the Lacey Act in 1900, making it a federal crime to ship illegally-taken birds across state lines. This was followed in 1913 by the McLean Law, which proscribed illegal hunting and shipment of migratory birds. However, when the government attempted to enforce McLean, defendants claimed it was an unconstitutional usurpation of states' rights under the Tenth Amendment and the law was struck down as unconstitutional.

A different legal approach was needed to afford legal protection to birds, so in 1916, the U.S. entered into a treaty with Great Britain (on behalf of Canada) to ensure the protection of migratory birds. In 1918, the Migratory Bird Treaty Act (MBTA), ratifying the treaty, was approved by the Senate. It afforded strict new protection to migratory birds. Again federal enforcement of the MBTA was challenged by several states on Tenth Amendment grounds. But because the MBTA implemented legislation for a treaty, it was upheld by the U.S. Supreme Court in 1920, based on the Supremacy Clause of the U.S. Constitution.

Similar conventions with Mexico (1936), Japan (1972) and the USSR (1976) have been incorporated into the MBTA. Some of these conventions recognize not only the protection of the birds themselves, but also the need to protect the habitats necessary for their survival. Each of the bilateral treaties lists birds that migrate between the respective countries and today include over 800 species of birds. (For a complete list of birds protected by MBTA, see the US Fish & Wildlife Service's web site: <http://www.fws.gov/migratorybirds/RegulationsPolicies/mbta/mbtandx.html>.)

The MBTA

The MBTA makes it unlawful, except as permitted by regulations, "at any time, by any means, or in any manner" to pursue, hunt, take, capture, kill, possess, sell, barter, purchase, ship, import or export any migratory bird, or any part, nest or egg of any migratory bird. The statute does not discriminate between live or dead birds and also includes any bird parts such as feathers, eggs and nests. Authority is given to

the Interior Secretary to grant permits and issue regulations for taking birds by activities that are deemed compatible with the terms of the treaties, such as hunting and for scientific research. This authority has been delegated to the U.S. Fish and Wildlife Service (FWS) and is found in Title 50 Code of Federal Regulations (C.F.R.). The regulations broadly define "take" to mean to "pursue, hunt, shoot, wound, kill, trap, capture, collect" or attempt any of these activities.

An exception to certain provisions of the MBTA regarding the use and possession of feathers and parts of birds of prey is given to enrolled members of federally recognized Native American tribes by the Eagle Feather Law (50 CFR 22.22).

The Gradual Evolution of the MBTA

Initially, the MBTA was directed at the establishment of seasons and the issuance of permits for hunting migratory game birds. For decades this was the focus of enforcement efforts. Charging hunters for possessing birds over the limit and hunting out-of-season was seen as fulfilling the purpose of the treaty.

The only means of enforcing the MBTA is by criminal prosecution in federal court. Intentionally taking a migratory bird for commercial purposes is a felony with a potential fine up to \$2,000 and imprisonment up to two years. Other takings constitute misdemeanors and do not require the element of intent. Interpreted literally, the Act allows the prosecution of any person who, no matter how unintentionally, takes a migratory bird without a permit. This imposes strict liability on a person who wounds or kills a migratory bird without a permit, no matter the means. A "take" resulting from a human activity, whose primary purpose is not the taking of a bird but nonetheless results in the death of a bird, is referred to as an "incidental take." However, the C.F.R.s do not provide for the issuance of a permit for an incidental take. Theoretically, a person driving a car that accidentally hits and kills a protected bird has committed an incidental take. Likewise, a company that builds a wind turbine that kills birds has committed an incidental take. This creates a situation where entities engaged in a variety of legal land use activities – such as property development, logging or wind power development – resulting in unintentional incidental takes may be subject to criminal prosecution while at the same time being unable to obtain a MBTA permit for the take.

In the 1970s, federal courts began to see criminal cases brought expanding the concept of incidental take. In three cases, oil companies that kept uncovered pits of toxic oil sludge which caused ...

(Migratory Bird Treaty Act, continued on page 5)





(*Migratory Bird Treaty Act, continued ...*) the deaths of migratory birds landing in and consuming the water were found guilty of violating the MBTA even though they did not “intend” to kill the birds. In 1978, a chemical company was prosecuted for violating the MBTA for discharging a known toxic pesticide residue into a settling pond resulting in the deaths of birds that consumed the water. On appeal, the 2nd Circuit applied the strict liability standard and upheld the conviction because the deaths were deemed incidental to a hazardous activity regardless of the lack of intent to kill birds.

At the same time, the 9th Circuit (which includes Montana) upheld a conviction for the poisoning of over 1,000 widgeons by applying a pesticide in an alfalfa field in a manner inconsistent with the label. However, the Court did not apply the strict liability standard but said that the defendant could have reasonably foreseen the danger and prevented it. By the close of the 1970s, the application of the MBTA had expanded beyond mere hunting violations and seemed to apply to any activity resulting in migratory bird deaths.

But rather than expanding the reach of the MBTA, federal courts in the following decades applied it inconsistently. In 1989, a district court in Idaho refused to expand the Act and found a farmer not guilty because he had applied pesticides with due care and according to the label. The next case concerned whether the MBTA was applicable to habitat destruction or modification. *Seattle Audubon Society v. Evans*, claimed that the Act prohibits logging in areas inhabited by protected birds. But in 1991 the 9th Circuit dismissed the case. It made two points: first, that no direct causation was shown between the habitat destruction and the bird deaths and second, that unlike the Endangered Species Act which includes habitat modification in its broad definition of “take,” MBTA does not mention it.

This trend continued in a 1996 case challenging a forest plan. A district court in Indiana ruled that while the MBTA applied to activities intended to harm birds (hunting, trapping or trafficking), it was not meant to apply to activities resulting in their unintended death, such as logging, and that therefore, no incidental take resulted from clear-cutting, an activity many would argue results in a direct take of birds especially during nesting season. As recently as 2004, the 9th Circuit reapplied the rea-



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soning from Seattle Audubon by requiring a more “direct link” than habitat modification to find liability under the MBTA.

The inconsistency of what standard applies has not been settled. In 2008, a Kansas court found an oil field services firm guilty for bird deaths and stated that the majority of federal courts have treated misdemeanor violations of the MBTA as strict liability crimes. But as recently as October 2009, a Louisiana federal court refused to accept a petroleum company’s guilty plea stating that the MBTA did not provide that the offense defined by the Act was a strict liability offense. This inconsistency has implications for the development of wind turbines.

The MBTA and Wind Turbines

The first federal case involving the deaths of birds (eagles, hawks and a great horned owl) caused by the operation of a power line was brought in 1999. A Colorado court expanded the application of MBTA by finding an electrical association guilty, even though it did not intend to “take” the birds, because it could have reasonably foreseen that placing power poles in an area devoid of other perches had the propensity to harm protected birds. The court also determined that the poles could have been inexpensively outfitted with protective equipment. This court moved away from the strict liability standard and used the foreseeability standard to determine liability.

Because private individuals or groups cannot sue other individuals or corporations for violating the MBTA, criminal enforcement is solely within the discretion of the FWS and Justice Department. The FWS would not be expected to prosecute a corporation that cooperates by implementing reasonable measures to prevent bird deaths or meets published guidelines. FWS has published some guidelines for communication towers and wind turbines. Developing scientific data identifying more heavily-traveled bird migration routes is essential in siting wind turbines. This establishes a basis for liability using the foreseeability standard if this data is ignored. Several environmental organizations, including Montana Audubon, have initiatives in this area. However, it remains unresolved whether courts will find wind turbine operators who have taken reasonable precautionary measures liable for migratory bird deaths under the MBTA.



male Mountain Bluebird
by James Coe

Thinking about Volunteering?

Here's your chance! Just show up at the next FAS Education Committee meeting and learn about all kinds of interesting volunteer opportunities, educational activities, and upcoming events. The Education Committee meets just three times a year. Our next meeting will be **Monday, February 1, from 4:30-5:30 PM at Colter Coffee on Main Street in Kalispell**. Hope to see you there!





L. Winnie

News from the Owen Sowerwine Committee

By Linda Winnie, Co-Chair of the FAS Owen Sowerwine Committee



L. Winnie

The Owen Sowerwine Committee has been busy since the OSNA (Owen Sowerwine Natural Area) Workday in October – completing existing projects and planning new ones.

A high priority activity has been to complete foot bridges in the Greenridge area that were started on the Workday, when work crews that day were not able to finish the decking on those bridges. Since then, Richard Kuhl and Brent Mitchell have returned to the area several times to finish the decking and to add concrete supports to one bridge to make it more secure. This spring, edging will be put along the sides of these bridges to keep feet from slipping off.

You may recall that at the Workday, Ben Young and his students from Glacier High installed a new OSNA logo, new maps and visitor information on the kiosk, and covered these materials with Plexiglas to protect them from the weather. Unfortunately, the Plexiglas did not also protect the materials from vandalism. Shortly after the Workday, someone cracked the Plexiglas and took the big GIS-aerial map of OSNA prepared for the kiosk by Susannah Casey. Since then, weather and more vandalism have degraded the kiosk even further. Susannah has graciously agreed to prepare another map for us, and soon the kiosk materials will be restored and a new piece of Plexiglas put in place. This time, the Plexiglas will be thicker, to provide more security.

Over the last year, fencing we installed at OSNA has been vandalized – some of it cut, some of it knocked down; falling trees have also taken out some stretches. The fencing helps keep motorized vehicles from entering OSNA, and marks the boundary at which visitors must begin to respect the rules of conduct for the Area. We will purchase materials to repair the fence and will be asking for volunteers to help make the needed repairs when weather permits.

The Committee turned to another sort of security issue in early December. We learned that application had been made to the Flathead County Planning and Zoning Office (FCPO) for a rip rap project on the Stillwater River just upstream from OSNA. Committee Co-Chairs Brent Mitchell and Linda Winnie visited the site of the proposed project and talked to the applicant to determine whether the project may result in any significant siltation or bank erosion at OSNA. They were accompanied by Amy Chadwick of Watershed Consulting and Mark Delaray of the Fisheries Department of Fish, Wildlife and Parks Region One, who generously donated their time and expertise to help in this analysis. We thank Amy and Mark for their help, and the applicant for graciously allowing our visit and talking to us about his plans for the project. We determined that the proposed project will likely not have a significant detrimental effect on OSNA.

We submitted a written summary of this finding to FCPO; Brent and Linda also met with the Flood Plain Administrators of the FCPO to discuss our findings. Brent and Linda expressed concern on behalf of Flathead Audubon that further bank stabilization projects will likely be proposed for locations closer to the boundaries of Owen Sowerwine, and some of these might cause problems for OSNA. Arrangement was made to have Flathead Audubon informed of any future applications for flood plain development projects in the vicinity of OSNA. We thank Bailey Iott and Jeff Harris, the Flood Plain Administrators, for being so helpful in making these arrangements, and for taking additional time to discuss ways to address other related issues. Early in 2010, Brent and Linda will also meet with administrators at the Flathead Conservation District to discuss a similar notification arrangement, and to discuss some of the same issues.

On another front, members of the Committee and Janet Ellis of Montana Audubon are negotiating with the Department of Natural Resources and Conservation (DNRC) for a new license for OSNA. The current 10-year license expires in February, 2010. Our preliminary discussions with DNRC have made us optimistic that agreement will be reached.

Finally, a reminder that the new season for scheduled Volunteer Monitoring visits will start soon. The season runs March through November; we will start next month asking for volunteers to sign up to make a scheduled monitoring visit. We need at least one volunteer for each of the half-month monitoring periods in the season; one monitoring visit (or more) should be made in each of these periods.

And, as usual, we ask you all to be Volunteer Monitors whenever you make a visit to Owen Sowerwine – scheduled or not. It is easy—just take an OSNA Monitoring Form with you and tell us what you see by filling in the spaces on the form. Then return the completed form to Brent Mitchell (address on the form). You can pick up a form at the FAS meeting, or print one from the Flathead Audubon website, or contact Linda Winnie to have one sent to you.

We certainly thank all who have helped with the monitoring and management activities at Owen Sowerwine in 2009. Audubon could not even begin to meet our obligations in managing Owen Sowerwine without all of the volunteer hours and efforts donated by FAS members.

Most things we do also require the purchase of materials, and some of these can be expensive. Examples from this year's activities include thicker Plexiglas for the kiosk and replacement fencing materials. Thank you to all who have helped us meet those expenses with their donations to Flathead Audubon.



BIRD COUNTS AND CLIMATE CHANGE

Linda de Kort, Quality of Life Chair.



The flurry of holidays and Christmas Bird Counts is a good time to reflect on what this 100-plus years of Citizen Science tells us about birds and climate change. According to National Audubon, the range of 177 of the 305 common bird species counted in the CBC has shifted north in the past four decades. Our local species whose center of abundance has moved more than 180 miles north are the spruce grouse, northern flicker, cedar waxwing. Research on breeding behavior shows that tree swallows are breeding earlier, and that the buff-breasted sandpiper that breeds in the arctic is losing territory as the tundra is replaced by woods. In addition to latitudinal shifts, here in Montana we have altitudinal shifts. Montana species are having to climb higher to breed. Where might they go when they reach the tip of the peak? Warmer temperatures have other ecological effects, such as the relationship of birds to vectors of disease. Native Hawaiian birds are a good example. Mosquitoes capable of carrying avian malaria were introduced to the Hawaiian Islands by Captain Cooke and his crews. These mosquitoes however were limited to the base of volcanic mountains because it was too cold for them in higher elevations; the native honeycreepers, Apapane and liwis have therefore been able to survive in higher elevations. With warmer temperatures, mosquitoes are moving into higher elevations. We might see the extinction of the last native Hawaiian birds in our lifetime. On a broader scale, National Audubon predicts that 400-500 land birds could become extinct by 2100 due to global warming. Birds are "canaries in the coal mine," or the "lobster in the pot," in this case. This post-holiday time is a good time for reflection and also a good time to put thoughts to paper, or keyboard, and let our elected officials know that, for many urgent reasons, we need a strong climate change bill this winter. You can contact our elected officials at the following addresses:

Senator Jon Tester

724 Hart Senate Office Building
Washington, DC 20510-2604
Phone: (202) 224-2644 Fax: (202) 224-8594
tester.senate.gov

Senator Max Baucus

511 Hart Senate Office Building
Washington, DC 20510-2604
Phone: (202) 224-2651 Fax: (202) 224-9412
baucus.senate.gov

Representative Denny Rehberg

2448 Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-3211 Fax: (202) 225-5687
rehberg.house.gov

President Barack Obama

The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500
Phone: (202) 456-1414 Fax: (202) 456-2461
president@whitehouse.gov



**Register now for
online bird behavior course
Next session begins January 6,
2010**

Ithaca, NY—The next five-week session for a new online course offered by Cornell Lab of Ornithology begins January 6, 2010. The goal of "Investigating Behavior: Courtship and Rivalry in Birds" is to learn to observe and interpret behavior and communication in birds. A basic principle of bird behavior is explored each week using multimedia and interactive activities, guided by an instructor.

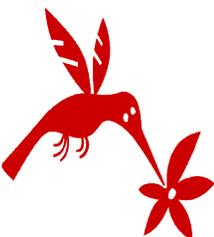
Course size is limited. To enroll or purchase as a gift, visit www.ecornell.com/birds. Another session will begin February 17, 2010. Cost of the course is \$295 (\$255 for Cornell Lab members) with a \$30 dollar registration fee. To receive the Cornell Lab member discount, sign up toll-free at (866) 326-7635.

"The rapidity of change and the speed with which new situations are created follow the impetuous and heedless space of man rather than the deliberate pace of Nature."

Rachel Carson, [Silent Spring](#)

DID YOU KNOW?

- The smallest hummingbird, the 2.25 inch Cuban Bee, weighs only two grams.
- The largest hummingbird, the 8.5 inch long Patagonia, weighs less than an ounce.
- Hummingbirds can hover as well as fly sideways, backwards and even upside down.
- A hummingbird's egg is only about the size of a jellybean, yet in proportion to body weight, hummingbirds' eggs are the largest of any kind.





scienceblognow.com

Oldest feathered dinosaur found

Chinese fossil find sheds light on evolution of birds.

Rex Dalton



Anchiornis huxleyi is the oldest feathered dinosaur found to date. Zhao Chuang and Xing Lida

Published online 25 September 2009 | Nature | doi:10.1038/news.2009.949

Chinese scientists have discovered a near-complete fossil of the oldest bird-like dinosaur, and their find suggests such feathered animals were present on Earth more than 150 million years ago. The fossil of the four-winged species, *Anchiornis huxleyi*, is dated to the Late Jurassic period, 151-161 million years ago. This eclipses the previous oldest such species, the 150-million-year-old *Archaeopteryx lithographica*, found more than a century ago in Germany. The report is seen as wiping out the last vestige of an argument by a handful of scientists that birds couldn't have evolved from such two-legged dinosaurs.

The four-winged dinosaurs also had feathers on their feet and wing-like attachments on the arms and legs. But they could probably only glide, as their plumage was insufficient for powered flight.

The discovery is to be published in *Nature*, but the team presented the find and several similar species at the annual meeting of the Society of Vertebrate Paleontology this week in Bristol, UK.

Fossil gold mine

The Chinese team say that the quarry in the northeastern province of Liaoning where the *A. huxleyi* fossil was found contained several other species of theropod dinosaurs, which share some links with modern-day birds. As is often the case in China, where many feathered

dinosaur specimens have been discovered, linking the *A. huxleyi* specimen to its sediments of origin required scientific detective work.

Earlier this year, the group reported the type specimen of *A. huxleyi*, which was based on a partial fossil that a farmer had found sandwiched between sediment layers. But the actual location that produced that specimen was unknown when the first report was prepared. Then the group received the new near-complete fossil that is the basis for the *Nature* article from another farmer, who led the team to the important quarry. Fossils that had previously been found in this quarry, in the locality of Daxishan in Jianchang County, Liaoning, had been dated to the Late Jurassic period, so the team knew they were onto something big.

Since then, the group has scoured Chinese museums for specimens from this geological formation and have found more than 200. The team also is scrutinizing specimens from another quarry that is dated to 158-164 million years ago.

With this wealth of fossils for analysis, a fuller picture of the meat-eating feathered creatures from the Late Jurassic seems to be on the horizon.

References: Hu, D. , Hou, L. , Zhang, L. & Xu, X. *Nature* 461, 640-643 (2009).
Xu, X. *et al. Chin. Sci. Bull.* 54, 430-435 (2009).

DO YOU HAVE INFORMATION ABOUT THE MOUNTAIN PLOVER?

From Bob Lee

You may be aware that the U.S. Fish and Wildlife Service reached a settlement agreement with litigants regarding the 2003 "Not Warranted" finding for the proposed listing of the mountain plover under the Endangered Species Act. In the settlement, FWS agrees to reopen the 2002 proposed rule to list the mountain plover and provide for additional public comment. Upon publication, the mountain plover will once again be a proposed species under the ESA, and FWS will make a final listing decision by May 1, 2011.

The FR notice will summarize pertinent new information regarding the mountain plover, but will not analyze the status of the species. To craft the FR notice, FWS is compiling all new information that has been developed since 2002 regarding the mountain plover. The FR notice must be published by July 31, 2010. However, they hope to publish it sooner, to allow time to analyze all comments and information received, and reach a final listing determination by May 1, 2011. Therefore, FWS is requesting that all pertinent new information regarding the mountain plover be forwarded to the address below by **January 8, 2010**. FWS is especially interested in receiving unpublished reports, survey information, or other data that may not be widely available.

The address is Peter Plage, Colorado Field Office, U.S. Fish and Wildlife Service, P.O. Box 25486, DFC (MS 65412), Denver, CO 80225-0486. Phone 303-236-4750, Fax 303-236-4005.



Thanks!

...to all those below who have made special donations to Flathead Audubon since November, 2009.

Merlin \$100+

Bob & Jane Lopp/Prudential Match



Kestrel \$50+

Colin & Jill Jay

Jill Joy



Jeanne Marlene

My Own Vision \$25+

Kathryn Britton

In memory of Mike Britton



John Gould

Supporting Member + donation

Bill Jensen

Mary Granger (gift from Joe Batts)

Richmond & Sarah Thomason

Richard & Suzanne Hildner



Frank DeKort

SPECIAL GIFTS

I wish to help make Flathead Audubon's vision a reality. Here is my contribution to the continued success of our chapter.

- Eagle Donation, \$1000+
- Osprey Donation, \$500+
- Snowy Owl Donation, \$250+
- Merlin Donation, \$100+
- Kestrel Donation, \$50+
- My Own Vision, amount of my choice



Dave Menke, USFWS

* * * *

The FAS activity which most interests me is:

- Education Programs
- Owen Sowerwine Natural Area
- Scholarships and Grants
- Field Trips and Outdoor Events

* * * *

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Flathead Audubon Society
P.O. Box 9173
Kalispell, MT 59904

HOW'S YOUR MATH?

Ratio of an igloo's circumference to its diameter = Eskimo Pi

- 2,000 pounds of Chinese soup = Won ton
- 1 millionth of a mouthwash = 1 microscope
- 16.5 feet in the Twilight Zone = 1 Rod Sterling
- Basic unit of laryngitis = 1 hoarsepower
- 2,000 mockingbirds = two kilomockingbirds
- 10 cards = 1 decacards
- 1,000 grams of wet socks = 1 literhosen

Rah Rah Sisboombah!

Flathead Audubon Volunteers win again!

The Owen Sowerwine Natural Area / Prudential Global Volunteer Work Day held in late September was a smashing success! We made several improvements involving the Kiosk, Trail work, Weed removal, and two Foot Bridges across Woodland Creek. These improvements were made possible by the volunteer labor of 38 determined people from the community, Audubon, and Jane Lopp & Associates.

A Prudential Global Volunteer Work Day Challenge Grant of \$1000 was applied for and sponsored locally by Prudential Jane Lopp & Associates. This is the 8th year of applying for the limited number of Grants.

At our last Flathead Audubon Board meeting, Jane Lopp & Associates announced they had just received word that we won the Grant. We can all pat ourselves on the back, and please give a heartfelt "Thank You" to Jane Lopp and her crew!

Brent Mitchell, OSNA co-chair

Receive your Pileated Post earlier, in color, with links and in the total privacy of your computer! Email lindawin@centurytel.net. And we will NEVER share your email address! We Promise!

Following is a press release from National Audubon, announcing Nancy Zapotocki's Fellowship with TogetherGreen. Although *The Pileated Post* gave you a "sneak peek" into this great news in last month's issue, you may find some of these additional facts about Nancy's appointment to be interesting.

FINDING THE FLATHEAD: Discovering and Conserving the Watershed in Your Backyard



NAME: **NANCY ZAPOTOCKI**
 LOCATION: KALISPELL, MT
 ORGANIZATION: [FLATHEAD AUDUBON SOCIETY](#)



Nancy Zapotocki has spent the last two decades working in environmental education and environmental conservation nationwide. A critical component of her teaching has been to accompany indoor lessons with hands-on outdoor activities. By encouraging individuals to develop a more intimate relationship with and a better understanding of the natural resources in their local community, Nancy is strengthening the environmental stewardship ethic locally.



For her TogetherGreen Fellowship, Nancy will launch an education and restoration program called "Finding the Flathead: Discovering and Conserving the Watershed in Your Backyard," which aims to unite local habitat restoration with conservation education in

northwest Montana. The Flathead Valley is currently experiencing substantial growth and a rapidly changing landscape.

"Finding the Flathead" builds on Flathead Audubon Society's highly successful conservation education programs by including stewardship of the local watershed.

By combining environmental education with hands-on exploration of nature, Nancy hopes this new program will help fulfill her conservation vision: for children and adults to have a more personal relationship with and better understanding of the natural resources in their own "backyards," leading to improved care and conservation of our natural world.

TogetherGreen Fellowship Leadership Conference and Local Program Highlights

Flathead Audubon's Conservation Educator, Nancy Zapotocki, returned from the 2009 *TogetherGreen* Fellowship Leadership Conference with a multitude of materials, new-found conservation friends, and innovative ideas to improve conservation of our local natural resources through education. The Leadership Conference ran for six days and topics included Fellows as Community Leaders, Integrated Conservation Planning, Strategies for Engaging Diverse Audiences, Equity and Social Justice, Strategic Communications, Storytelling and Social Media and Program Evaluation. The presenters were all outstanding speakers and nationally recognized in their fields. There was also significant time to develop and define each Fellow's local project with feedback from other Fellows and experts in a variety of disciplines. "I feel honored to be a part of such a national program and effort for conservation and really appreciate the opportunity to bring it home to the Flathead," said Nancy on her return.

Nancy refined her concept for her local Conservation Project for the Owen Sowerwine Natural Area and State Important Bird Area. The project will include developing a watershed education unit of study with Project Wet, Project Wild and Discover a Watershed, a teacher workshop, nature journaling, Peer Mentoring for conservation education (secondary with elementary students), and habitat restoration at Owen Sowerwine with students.

Nancy is partnering on the project with the Northwest Montana Educational Cooperative, Flathead Conservation District and selected local schools, along with a Peer Mentoring expert and another Fellow on the nature journaling aspect of the program. The project includes funding for bus transportation and classroom and field materials. As the project moves forward, look for articles from Nancy, the teachers, students and mentors.

FLATHEAD AUDUBON MISSION STATEMENT

THE FLATHEAD AUDUBON SOCIETY IS A LOCAL CHAPTER
 OF THE NATIONAL AUDUBON SOCIETY.



- ◆ OUR MISSION IS TO CONSERVE BIRDS, WILDLIFE HABITAT, AND ECOSYSTEM DIVERSITY.
- ◆ WE PROMOTE AWARENESS AND APPRECIATION OF THE NATURAL WORLD THROUGH EDUCATIONAL ACTIVITIES AND ADVOCACY PROGRAMS.
- ◆ WE WORK WITH DIVERSE GROUPS AND AGENCIES TO ACHIEVE SOUND DECISIONS ON NATURAL RESOURCE ISSUES.
- ◆ WHILE FOCUSING OUR EFFORTS IN NORTHWEST MONTANA, WE BELIEVE IN THE PROTECTION OF THE EARTH AND ALL OF ITS INHABITANTS.

KIDZ



Let's Learn More About Feeding Birds in our Backyards!

Marysa Rogozynski, Grade 9, Glacier High School, Mrs. Streeter's Class

O

Have you ever wondered what type of birds may be feeding in your backyard? It is truly fascinating to sit and watch chickadees, jays, or even woodpeckers come to visit. You may never have realized how many birds there are in the Flathead Valley. During the winter, you will see many birds at backyard feeders. The types of birds you may find in the winter include chickadees, nuthatches, Evening Grosbeaks, woodpeckers and jays. These are all birds that use feeders in the winter to find food. During the winter, it gets harder for birds to find natural food sources. By having feeders for these birds, it gets easier for them to find food. Have you ever seen any of these birds?

R

The type of bird feed you use will attract different varieties of birds to your feeder. Common birds that are attracted to sunflower seeds would include chickadees, nuthatches, woodpeckers, grosbeaks, and jays. Try experimenting with the type of bird seed you use. Try buying a bag of bird seed and see what birds show up at your feeder. Or look at other options through <http://www.birds.cornell.edu/pfw/AboutBirdsandFeeding/BirdFoods.htm#SeedPreferences>. You may be surprised at what you see.

N

Try making your own bird feeder and see what birds you can identify. To begin, you can go to a hardware store and purchase a bird feeder or even a bird feeder kit. You can even create your own by using recyclable materials. Make sure to include bird seed. If you are planning to continue using your bird feeder through other seasons, make sure that you include water so that the birds may have something to drink and bathe in. A good location for your bird feeder would be near a tree or some bushes, preferably not somewhere random in the middle of your backyard. For more information on bird feeders, visit http://www.audubon.org/bird/at_home/bird_feeding/index.html.



E

Keeping a journal will help you track the different varieties of birds that visit your feeder. You might also record what type of feed you used. It is possible that you will see a new bird that you had never seen before. Drawing pictures of the birds in your journal will help you identify the birds later. You can go to the library and find bird books to identify what birds visit your feeder. It's a great thing to watch and keep track of the birds that come and visit.

R

Enjoy exploring the world around you. You never know what new and exciting things may lie right around the corner.



A bird doesn't sing because it has an answer. It sings because it has a song.
Chinese Proverb

Kids Korner is coordinated by our Conservation Educator, Nancy Zapotocki. If you have a topic of natural history interest and a budding student author, send Nancy an email at naz@centurytel.net. Include the topic, school, grade, student and teacher name. Your idea could be the next article. A teacher may even give extra credit 😊 "Kids sharing nature with kids!"

www.xeno-canto.org - An Amazing Collection of Bird Sounds]

Birds are amazing. Their ability to fly certainly is enviable. And many have stunning plumage. So, it is no surprise that bird-watching is popular. Fall is a great time for bird-watching. After all, that's when many migrations occur. You'll see species that aren't around at other times of year.

Xeno-canto is a great site for bird-watchers. You won't find many pictures to help you identify birds. Rather, you'll find a vast database of bird sounds. There are tens of thousands of bird sounds, representing thousands of species. There are also resources to help you learn more about particular species.

Now, you may need a little help navigating the site. Finding bird sounds for species in your area can be tricky. To get started, click the Map search button. Use the map controls to navigate to your area. Click to place a flag on the map. Click the flag. Click "get all recordings from this location."

This site is a must for veteran birders—or those just starting!

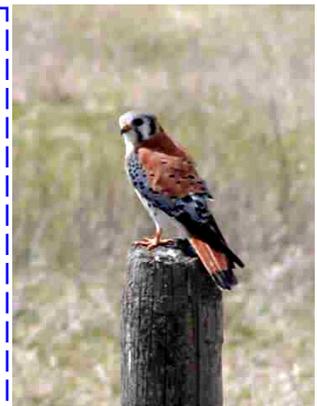


Photo by Jeannie Marcure



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The Flathead Audubon Society is affiliated with Montana Audubon and the National Audubon Society. Flathead Audubon meets on the second Monday of each month from September through May. Meetings start at 7:00PM and include a featured guest who presents a conservation or nature program. The Board of Directors meet the Monday preceding the general meeting, at 6PM at 295 3rd Ave. EN, in Kalispell. Both meetings are open to all those interested.

THE PILEATED POST is published September through May and is sent to members of Flathead Audubon Society as a membership benefit. For membership information or address change, please call Mike Fanning at 862-8070. To receive this newsletter electronically, email your request to: lindawin@centurytel.net. **Deadline for newsletter copy is the 18th of each month. Contact newsletter editor at 755-1406; email submissions to: pileatedpost@flatheadaudubon.org**

Website: www.flatheadaudubon.org
FlockMaster - John Kyle: jkyle@fastmail.us
Conservation Educator - Nancy Zapotocki: naz@centurytel.net

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MONTANA AUDUBON
P.O. Box 595, Helena, MT 59624
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www.mtaudubon.org
Executive Director: Steve Hoffman
shoffman@mtaudubon.org
Board President: Dan Sullivan
443-4229



FLATHEAD AUDUBON SOCIETY

Membership
Individual or Family

- Basic Membership \$20
(Pays for newsletter and operating costs)
- Supporting Membership \$35
(Extra \$15 funds local projects such as grants, scholarships, meetings, and Christmas Bird Count)
- Additional Donation of \$ _____
to Education Fund
- Owen Sowerwine Fund
- Wherever needed

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